STATUTORY RULES OF NORTHERN IRELAND

2013 No. 215

SEA FISHERIES

The Sea Fish Industry (Harbour and Landing Dues) Scheme (Northern Ireland) 2013

Made - - - - 30th August 2013

Coming into operation 2nd September 2013

Approved by resolution of the Assembly on 21st October 2013

The Department of Agriculture and Rural Development, with the approval of the Department of Finance and Personnel(**1**), makes the following Scheme in exercise of the powers conferred by section 15(1) and (2) of the Fisheries Act 1981(**2**), as read with paragraph 2(1) of Schedule 2 to the Sea Fisheries (Northern Ireland) Order 2002(**3**), and now vested in it(**4**).

Title and commencement

1. This Scheme may be cited as the Sea Fish Industry (Harbour and Landing Dues) Scheme (Northern Ireland) 2013 and comes into operation on 2nd September 2013.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(**5**) applies to this Scheme as it applies to an Act of the Assembly.

(2) In this Scheme—

"applicant", except in relation to an application for review under paragraph 7, means a person making an application for a grant under paragraph 4(1), and "application" is to be construed accordingly;

"the Commission Regulation" means Commission Regulation (EC) No 875/2007 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid in the fisheries sector(**6**);

"days at sea" means days present in a geographical area subject to a fishing effort regime;

"the Department" means the Department of Agriculture and Rural Development;

(**1**) The function of the Treasury to approve a Scheme under section 15 of the Fisheries Act 1981 is, by virtue of article 3(2) of, and paragraph 2(7)(a) of Schedule 2 to, the Sea Fisheries (Northern Ireland) Order 2002, exercisable by the Department of Finance and Personnel where the Scheme is made by the Department of Agriculture and Rural Development.
(**2**) 1981 c.29.
(**3**) S.I. 2002/790.
(**4**) S.I. 2002/790, article 3(2) and Schedule 2, paragraph 2(2).
(**5**) 1954 c.33 (N.I.).
(**6**) O.J. No L193, 25.7.2007, p.6. Articles 87 and 88 of the EC Treaty are now Articles 107 and 108 of the Treaty on the Functioning of the European Union.

"eligible Northern Ireland fishing boat" means a Northern Ireland fishing boat within the meaning of article 2(2) of the Sea Fisheries (Northern Ireland) Order 2002 (**7**) which—

(a) has its port of administration in Northern Ireland;

(b) is under 27 metres' length overall; and

(c) has spent 25 days at sea or more during the period 1st January 2013 to 31st July 2013 (both dates inclusive);

"grant" means a grant in respect of harbour dues or landing dues payable under this Scheme;

"harbour authority" means a person or body of persons responsible for the management of a port or harbour in the United Kingdom and entitled to make charges in respect of fishing boats entering the port or harbour or using facilities therein;

"harbour dues" means charges made by a harbour authority in respect of the berthing of a Northern Ireland fishing boat;

"landing dues" means charges made by a harbour authority in respect of the landing of fish from a Northern Ireland fishing boat;

"length overall", in relation to a fishing boat, means the length of the boat measured in accordance with Article 2(1) of Council Regulation (EEC) No 2930/86 defining characteristics for fishing vessels (**8**); and

"port of administration", in relation to a fishing boat, means the port from which the licence granted in respect of the fishing boat under section 4 of the Sea Fish (Conservation) Act 1967(**9**) is issued.

(3) For the purposes of the definition of "days at sea" "days present in a geographical area" has the same meaning as in Article 26(6) of Council Regulation (EC) 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy(**10**).

Invitations for applications

3.—(1) The Department may invite applications for a grant in accordance with the following provisions of this paragraph.

(2) The Department shall publish a notice inviting applications in a manner that will ensure it is reasonably likely to be seen by persons eligible to apply for a grant.

(3) A notice shall specify –

(a) the details of conditions of eligibility for, and payment of, a grant;

(b) the closing date for making an application;

(c) the information which an applicant is required to provide in support of the application.

Applications

4.—(1) Subject to the provisions of the Commission Regulation, the owner or charterer of an eligible Northern Ireland fishing boat may, in response to a notice published under paragraph 3(2), apply to the Department for a grant towards the payment of harbour dues or landing dues (or both) incurred in respect of that fishing boat during the period specified in the notice and for which that person is liable.

(**7**) S.I. 2002/790.
(**8**) O.J. No L 274, 25.09.1986, p.1.
(**9**) 1967 c.84. Section 4 was substituted by the Fishery Limits Act 1976 (c.86), section 3, and relevant amendments have been made by the Fisheries Act 1981 (c.29), section 20, the Sea Fish (Conservation) Act 1992 (c.60), section 1, and S.I. 1999/1820, article 4.
(**10**) O.J. No L 343, 22.12.2009, p.1.

(2) An application shall be in writing and be made to the Department on or before the closing date specified in the notice published under paragraph 3(2).

(3) The Department may accept an application received after the closing date if it is satisfied that—

(a) the particular circumstances of the applicant render it unreasonable to expect the application to have been made by the closing date; and

(b) the date on which the application was received is as early as can reasonably be expected in those circumstances.

(4) The Department shall reject an application in respect of a fishing boat if it is satisfied that the port of administration of the fishing boat has been changed to a port in Northern Ireland for the primary purposes of ensuring that the fishing boat is an eligible Northern Ireland fishing boat for the purposes of this Scheme.

Payment of grant

5.—(1) Where the Department has received an application the Department shall determine whether it –

(a) satisfies the conditions in the notice published under paragraph 3(2);

(b) provides the information required in the notice published under paragraph 3(2),

(c) and if it does the Department may, subject to paragraphs 6 and 8, pay a grant to the applicant of an amount not exceeding 70 per cent of the applicant's liability for any harbour dues or landing dues in respect of the period specified in the notice published under paragraph 3(2).

(2) The Department may make payment of any grant under sub-paragraph (1) subject to such conditions as it may determine.

(3) The Department shall notify the applicant in writing of its decision to approve or reject an application and —

(a) if an application is rejected, the reasons for the rejection and the right of review under paragraph 7; and

(b) if an application is approved , the amount of the grant to be paid and any conditions to which it is to be made subject, as determined by the Department under sub-paragraph (2).

De-minimis aid

6. The Department shall not pay any grant unless the requirements of the Commission Regulation, in particular as to the limits on the amount of *de-minimis* aid set out in Articles 3 and 4, have been, and are complied with.

Review of decision

7.—(1) Where the Department rejects an application under paragraph 5, a person may apply to the Department for a review of the decision in accordance with this paragraph if that person is—

(a) the applicant whose application has been rejected; or

(b) any other person who is eligible under paragraph 4(1) to make an application in respect of the fishing boat specified in the application that has been rejected.

(2) An application for review shall be made to the Department no later than 3 months from the date of the notification of the decision to be reviewed.

(3) An application for review shall be in writing and shall specify—